REMARKS/ARGUMENTS

The Office Action of August 4, 2005, has been carefully reviewed and this response addresses the Examiner's concerns stated in the Office Action. All rejections are respectfully traversed.

I. STATUS OF THE CLAIMS

Claims 1-17 and 19-25 are pending in the application.

Claims 18 and 26-29 have been previously cancelled without prejudice.

Claims 1-3, 7, 8, 11-13, 17, 20-22, and 25 are rejected as being anticipated by Tentij et al., U.S. Patent Number 6,513,129, filed on June 30, 1999, issued on January 28, 2003 (Tentij). Applicant respectfully notes that Tentij was published over a year after the filing date of the present application (October 8, 2001). It should be noted that Applicant is in the process of establishing common ownership of Tentij and the present application at the time the present invention was made.

Claims 4-6, 9, 10, 14-16, 19, 23, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tentij in view of Fenger et al., U.S. Patent 6,751,659, filed on March 31, 2000, issued on June 15, 2004 (Fenger). Applicant respectfully notes that Fenger was published almost three years after the filing date of the present application (October 8, 2001).

II. REJECTIONS UNDER 35 U.S.C. 102(e)

On pages 2-6 and 9-11, in paragraphs 2 and 5-10, claims 1-3, 7, 8, 11-13, 17, 20-22, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Tentij.

Applicant respectfully points out that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (CAFC, 1987), M.P.E.P. § 2131. As provided by the remarks set forth below, clearly this is not the case with the present rejection of the claims. In summary, Tentij does not anticipate Applicant's claimed invention at least because:

(1)   Applicant claims a policy objects defining fault management behavior for managing a network element by the gateway. The elements of Tentij's invention manage the reaction of the system of Tentij to fault incidents, but nowhere does Tentij disclose or suggest Applicant's invention as in independent claims 1, 11, and 20; and

(2)   Applicant claims policy objects distributed across servers wherein a respective policy object is executed in response to a fault incident received by the gateway and associated with the policy object. On the contrary, Tentij routes all physical network element incidents to one management processor, the element management processor (claims 1, 11, and 20).

On pages 2-4, with respect to independent claims 1, 11, and 20,

1. (page 2, paragraph 2b) (Tentij, col. 1, lines 40-44)

The Office Action states that Tentij discloses that the system includes a gateway and a management processor system, that the gateway is communicatively connected to a network for receiving alarm incidents from the network (a gateway managing the network element and receiving fault alarm incidents from the network element).

In the cited passage, Tentij states that the gateway selects and processes a control object based on information from an alarm incident. Applicant, on the contrary, claims a gateway managing a network element. The control object of Tentij manages the reaction of the system to alarms, but does not manage the network element. Thus Tentij does not anticipate Applicant's claims 1, 11, and 20.

2. (pages 2-5, paragraphs 2c-2f) (Tentij, col. 4, lines 43-47)

The Office Action states:

a. (page 3, paragraphs 2c-2d) that Tentij discloses management processors for handling policies relating to elements, the network, service or business (distributed management servers communicatively associated with the gateway);

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b. (pages 3-4, paragraphs 2e-2f) that Tentij discloses that identifying and parsing involves identifying the incident's source and associated management level so that it may be processed in the correct management processor (each policy object defining fault management behavior for managing the network element by the gateway, wherein a respective policy object is executed by the distributed management server on which the policy object resides in response to a respective fault alarm incident received by the gateway and associated with the policy object, to thereby implement the fault management behavior defined by the respective policy object in response to the respective fault alarm incident; wherein said gateway is capable of determining which said policy object corresponds to said fault alarm incident, said gateway is capable of selecting a distributed management server from said distributed management servers that is related to said policy object, said gateway capable of routing said fault alarm incident to said selected distributed management server).

In the cited passage, Tentij states that the alarm incident is processed by either an element, network, service, or business management processor based on the alarm incident's source and management level. Further, Tentij states that most incidents are processed by the element management processor because they are from the network elements, that incidents that aren't generated by the physical network are processed by network, service, and business management processors, that the network elements are not capable or even in a position to communicate a "service" problem to the system (Tentij, col. 4, lines 49-61).

Applicant, on the contrary, claims policy objects distributed across servers where each policy defines fault management behavior for managing the network element by the gateway. As stated previously and reiterated here, Tentij does not disclose or suggest Applicant's claimed fault management behavior for managing the network element by the gateway.

Further, Applicant claims policy objects distributed across servers wherein a respective policy object is executed in response to a fault incident received by the gateway and associated with the policy object. Tentij routes all physical network element incidents to one management processor, the element management processor.

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The element management processor can then generate its own incidents that are routed to network, service, and business management processors, but Tentij does not route physical network element incidents to the various network, service, and business management processors based on the type of alarm incident. Thus, Tentij does not anticipate Applicant's claims 1, 11, and 20.

3. (pages 4 and 9-11, paragraphs 2f, 6, 8, and 10) (Tentij, col. 5, lines 15-18)

The Office Action states that Tentij discloses that basic control object processing is performed in the distributed gateways with advanced processing being performed in the management processor system, and that Tentij teaches forward the fault to a management processor (said gateway capable of transferring control of processing said fault alarm incident according to said policy object to said selected distributed management server, distributed management servers receive control from said gateway to process said fault alarm incidents).

The cited passage, in referring to basic processing in the gateway and advanced processing in the management processor system, is referring to the element management processor system because that is the system that receives faults from physical network elements. Applicant claims transferring control of processing to a selected distributed management server that is related to the policy object that corresponds to the fault alarm incident. Applicant further claims that the gateway selects the distributed management server from the distributed management servers that is related to a policy object. Tentij, on the contrary, sends all physical network element processing from the gateway to the element management processor, regardless of the alarm incident. Thus, Tentij does not anticipate Applicant's claims 1, 11, and 20.

4. (page 3, paragraph 2d) (Tentij, col. 5, lines 28-34)

The Office Action states that Tentij discloses that the management processor system may be implemented on one or more connected servers such that each processor may be physically distinct from the other (distributed management servers; and policy objects distributed across the distributed management servers so that each

policy object resides on and is executable by a respective distributed management server).

In the cited passage, Tentij states that the element, service, network, and business processors may be implemented on one or more connected servers, and may be physically as well as conceptually distinct from one another. Tentij does not state that element servers, the servers that process physical network element fault incidents, can be physically distinct from one another, nor does Tentij disclose or suggest Applicant's claimed policy objects distributed across the distributed servers where the policy object define fault management behavior for managing a network element by the gateway. The "distribution" in Tentij refers to the levels (element, service, network, and business) of processing, so that alarm incidents generated by the physical network elements always are processed by the element management processor, and alarm incidents generated by the element processor and other processors are processed by service, network, and business processors. Thus, Tentij does not anticipate Applicant's claims 1, 11, and 20.

5. (pages 3-4, paragraphs 2e-2f) (Tentij, col. 1, lines 41-47)

The Office Action states that Tentij discloses that the gateway has a rule engine for selecting a control object from a set of control objects based on information from the alarm incident, and processing the selected control object. The Office Action further states that the management processor system has a processor for processing configuration objects in response to the selected control object for implementing fault management objects defined by at least one user.

In the cited passage, Tentij states that the gateway selects and processes a control object based on the alarm incident, and that the management processor system processes configuration objects in response to the selected control object to implement fault management objectives. Tentij does not teach, however, Applicant's claimed selecting a server that is related to the policy object, and that each policy object defines fault management behavior for managing the network element by the gateway. In Tentij, the fault incidents that are generated by the physical network elements are sent to one server, the element server, so there is no selecting a server

that is related to a the fault incident. Further, in Tentij, the management is of fault incidents, not of a network element by the gateway. Thus Tentij does not anticipate Applicant's claims 1, 11, and 20.

Applicant respectfully points out that Tentij does not anticipate each and every element of Applicant's independent claims 1 and 20, nor does Tentij anticipate each and every step of Applicant's independent claim 11. Therefore, independent claims 1, 11, and 20, as well as dependent claims 2-10, 12-17, 19, and 21-25, are not anticipated by Tentij and a rejection under 35 U.S.C. § 102 is inappropriate. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(e) directed to independent claims 1, 11, and 20, and therefore dependent claims 2-10 and 12-17, 19, and 21-25, and find amended claims 1, 11, and 20, and therefore dependent claims 2-10 and 12-17, 19, and 21-25, in condition for allowance.

Applicant asserts that dependent claims 2-10, 12-17, 19, and 21-25 are in condition for allowance at least based upon their dependence on allowable independent claims 1, 11, and 20. To further Applicant's position with respect to the patentability of selected dependent claims 2, 7, 12, 17, 21, and 25, Applicant notes the following.

On page 5, with respect to dependent claims 2, 12, and 21, the Office Action states that Tentij discloses that the gateways include a rule engine for identifying and parsing incoming incidents that involves identifying the incident's source and associated management level so that it may be processed in the correct management processor (a decision object stored in the gateway, the decision object defining decision behavior for routing fault alarm incidents received by the gateway from the network element to an appropriate distributed management server for execution of a policy object residing on said appropriate distributed management server) (col. 4, lines 36-47).

In the cited passage, Tentij states that gateways determine the incident's source and management level, and translate incoming incidents into a form that is understood by the rest of the system. Tentij states that element layer incidents correspond to signals from the physical network elements, but that incidents are not

exclusively generated within the physical network. Although Tentij seems to indicate that incidents received from network elements could be directed elsewhere besides the element processor, in fact, Tentij states that the elements themselves are not capable (or even in a position) to communicate a "service" problem to the system (col. 4, lines 59-61). Therefore, in Tentij, a physical element incident is routed to the element processor. On the contrary, Applicant claims routing fault alarm incidents received by the gateway from the network element to an appropriate distributed management server. In Tentij, fault alarm incidents from the network element are always routed to a single destination, not to an appropriate distributed management server. Therefore, Tentij does not anticipate Applicant's claims 2, 12, and 21.

On pages 5-6, with respect to dependent claims 7, 17, and 25, the Office Action states that Tentij discloses that the management processing system would take appropriate action such as displaying alert information on the display terminal interface, that the basic processing in the gateway may directly cause an alert message to be displayed on the Alert Display (an alert server generating alerts based on fault conditions in accordance with the policy objects) (col. 8, lines 35-39).

In the cited passage, Tentij states that either the management processing system 430 or the gateway 425 displays alert information. Tentij does not disclose or suggest, however, Applicant's claimed alert server that generates alerts in accordance with policy objects. Applicant fails to see the connection between Applicant's claimed alert server that generates alerts and Tentij's display of an alert message by the management processor or gateway. Tentij's display of an alert implies that an alert that has already been generated is ready for display to a user. Applicant's claimed alert server generates alerts and is therefore different from Tentij's display of and alert. Therefore, Tentij does not anticipate Applicant's claims 7, 17, and 25.

III. REJECTIONS UNDER 35 U.S.C. § 103

On pages 6-9, paragraphs 3-4, of the Office Action, claims 4-6, 9, 10, 14-16, 19, 23, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tentij in view of Fenger.

In order for a rejection under 35 U.S.C. §103 to be sustained, the Office Action must establish a prima facie case of obviousness. To establish a *prima facie*

case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Further, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Applicant asserts that the prior art references do not teach or suggest all the claim limitations of dependent claims 4-6, 9, 10, 14-16, 19, 23, and 24.

Because Tentij has many deficiencies as presented above, and those deficiencies can't be corrected by Fenger as clearly pointed out below, Applicant asserts that the rejection of dependent claims 4-6, 9, 10, 14-16, 19, 23, and 24 is inappropriate.

To further Applicant's position with respect to the patentability of dependent claims 4, 6, 10, 14, and 16 Applicant notes the following.

On pages 6-8 of the Office Action, with respect to claims 4 and 14, the Office Action correctly states that Tentij doesn't explicitly disclose a policy server communicatively coupled to the distributed management servers, the policy server storing policy objects and operable to distribute the stored policy objects to the distributed management servers. The Office Action states that Fenger discloses that the primary server (policy server) maintains and manages a set of policy rules in a form of a policy tree (Fenger, col. 1, lines 60-65). The Office Action further states that it would have been obvious to include the policy server of Fenger into the system of Tentij because a central location for storing policy rules allows a user to change a policy and have the changes reflected in all of sub-systems (Fenger, col. 2, lines 30-40).

In the first cited passage (Fenger, col. 1, lines 60-65), Fenger states that the policy rules are in the form of a policy tree that may show which nodes correspond to which network component. The policy rules of Fenger are conditions for a user/application system to access a resource (col. 1, lines 49). Applicant, on the contrary, claims policy objects that define fault management behavior. Applicant asserts that the structure of a system that relies on a decision tree to determine which user/application can access a resource is entirely different from Applicant's claimed system including policy objects that define fault management behavior and that are stored by a policy server that can distribute policy objects to a distributed management server.

In the second cited passage, Fenger states that the database of policy information (i.e. information about which network components can be accessed by which users/applications) can be distributed to policy servers that may further distribute the policy information to those components that possess policy information that has been modified by human or programmed intervention. Applicant reiterates that the policy information of Fenger is different from Applicant's claimed policy objects that are executable by a distributed management server and that define fault management behavior. The cited passages of Fenger do not disclose or suggest Applicant's claimed policy objects stored by a policy server. Therefore, the combination of Tentij and Fenger do not make obvious Applicant's claims 4 and 14.

On pages 7-8 of the Office Action, with respect to claims 6, 10, and 16, the Office Action states that Fenger discloses that the target identifies itself, describes its capabilities and roles in the network, such as giving user ID or requesting certain resources, and describes how it is configured to work within the network, that the policy server uses the information about the target as a filter to select the relevant subset of policy information for delivery to the target (a configuration file communicatively accessible by the policy server, the configuration file storing information defining the distributed management servers to which the policy objects are to reside, and logic executable to distribute the policy objects to the distributed management servers in accordance with the configuration file) (col. 2, line 57 – col. 3 line 8).

In the cited passage, Fenger states the process by which selective distribution
of policy information is made to targets. Fenger does not disclose or suggest
Applicant's claimed configuration file accessible by the policy server. Instead,
Fenger states that the target requests policy information by identifying itself to a
policy server, that the policy server filters policy information based on the target's
identifying information, that the selected policies are downloaded to the target. The
Office Action is assuming that Fenger is using a configuration file, but Fenger does
not disclose or suggest a configuration file. Therefore, the combination of Tentij and
Fenger do not make obvious Applicant's claims 6, 10, and 16.

IV. CONCLUSION

In view of the absence from any cited reference of Applicant's claimed
invention, as set forth above, Applicant respectfully urges that Tentij and Fenger,
separately or in combination, are not sufficient to render the presently claimed
invention anticipated under 35 U.S.C. § 102 or obvious under 35 U.S.C. § 103.

Independent claims 1, 11, and 20 are believed to be in condition for allowance
for the reasons stated above. All dependent claims are believed to depend upon
allowable independent claims, and are therefore also in condition for allowance.
Applicant respectfully urges examiner to find all claims presented in the present
application in condition for allowance and pass the case to issue.

The Commissioner for Patents is authorized to charge additional fees or credit
overpayment to Deposit Account No. 50-1078.

The following information is presented in the event that a call may be deemed
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Respectfully submitted,
Daniel R. Bolar, Applicant

Date: November 4, 2005   By:
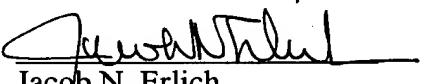
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